

**MINUTES OF THE
JUDICIARY INTERIM COMMITTEE**

Wednesday, October 19, 2005 – 2:00 p.m. – Room W130 House Building

Members Present:

Sen. David L. Thomas, Senate Chair
Rep. James A. Ferrin, House Chair
Sen. Patrice M. Arent
Sen. Gregory S. Bell
Sen. L. Alma Mansell
Sen. Scott D. McCoy
Sen. Darin G. Peterson
Rep. Douglas C. Aagard
Rep. Stephen D. Clark
Rep. Ben C. Ferry
Rep. Lorie D. Fowlke
Rep. Ann W. Hardy
Rep. Neal B. Hendrickson

Rep. David L. Hogue
Rep. Eric K. Hutchings
Rep. Susan Lawrence
Rep. Ross I. Romero
Rep. Scott L. Wyatt

Members Absent:

Rep. LaWanna Shurtliff

Staff Present:

Mr. Jerry D. Howe, Policy Analyst
Ms. Esther Chelsea-McCarty, Associate General Counsel
Ms. Cassandra N. Bauman, Legislative Secretary

Note: A list of others present, copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Ferrin called the meeting to order at 2:30 p.m.

MOTION: Rep. Wyatt moved to approve the minutes of the September 21, 2005 meetings. The motion passed unanimously with Sen. Thomas, Rep. Clark, Rep. Hardy, and Rep. Hutchings absent for the vote.

2. Child Protection Amendments

Sen. Bell introduced the issue.

Mr. Mark May, Attorney General's Office, explained that anytime the state takes custody of a child, due process and safety of the child must be considered. He explained draft legislation "Child Protection Amendments" as distributed prior to the meeting. He responded to questions from the Committee.

The Committee discussed the term "substantial harm" and the concerns of potential abuses that could occur when removing a child under that standard.

MOTION: Sen. Bell moved to approve "Child Protection Amendments" as a committee bill. The motion passed with Rep. Ferrin and Rep. Hogue voting in opposition of the motion. Sen. Mansell, Rep. Ferry, and Rep. Hutchings were absent for the vote.

3. Sunset Review—Restrictions on Pleas to DUI Violations

Mr. Mark Haddon, Director of Research, Commission on Criminal and Juvenile Justice, distributed and reviewed "DUI Plea in Abeyance Study" and "DUI and Pleas in Abeyance." He responded to questions from the Committee.

Mr. Paul Boyden, Executive Director, Utah Association of Prosecutors, noted some concerns with the current process. He expressed a concern that a Plea in Abeyance is not being recorded as a conviction of a DUI, but rather as a dismissal. He recommended two solutions: (1) reassign the review and certification of DUI courts to the Judicial Council and (2) postpone the sunset for two years so further review of the problems associated with a Plea in Abeyance can be better understood. He responded to questions from the Committee.

MOTION: Rep. Wyatt moved to extend the sunset date for the Restrictions to Pleas for DUI Violations for two years. The motion passed unanimously with Sen. Thomas, Sen. Peterson, Rep. Clark, and Rep. Ferry absent for the vote.

Ms. Anna Kay Waddoups, Chair, State DUI Committee, spoke in favor of extending the sunset date.

4. Annual Reports

A. DUI Data Elements

Ms. Mary Lou Emerson, Director, Utah Subsidies and Anti-violence Coordinating Council, distributed and reviewed "Third Annual DUI Report to the Utah Legislature." Ms. Waddoups explained recommendations by the State DUI Committee.

Ms. Waddoups, Ms. Emerson, and Mr. Richard Schwermer, Administrative Office of the Courts, responded to questions.

B. Sex Offender Treatment

Mr. Haddon distributed and reviewed "Sex Offender Treatment in Utah, Report to the Utah Legislature: October 2005" and "Sex Offender Treatment in Utah." He and Dr. Ron Sanchez, Department of Corrections, responded to questions from the Committee.

Ms. Chris Mitchell, Deputy Director, Department of Corrections, explained the funding for the sex offender treatment program.

5. Other Items / Adjourn

MOTION: Rep. Fowlke moved to adjourn. The motion passed unanimously with Sen. Thomas, Sen. Arent, Sen. Bell, Rep. Clark, Rep. Hardy, and Rep. Hutchings absent for the vote.

Chair Ferrin adjourned the meeting at 4:32 p.m.